

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
BARBARA JOAN CASTOR }

Appearances:

For Appellant: Norm Youngs

For Respondent:, Kendall E. Kinyon
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Barbara Joan Castor against a proposed assessment of additional personal income tax and penalties in the total amount of \$719.00 for the year 1977.

Appeal of Barbara Joan Castor

The question presented is whether appellant has established error in respondent's proposed assessment of tax or penalties for the year in question.

Appellant was employed by the William S. Hart Union High School and filed a California form 540 for the year 1977 which failed to disclose any information regarding her income, deductions or credits. In the space provided for this information, appellant entered asterisks denoting various constitutional objections to the personal income tax and the disclosure of information. When she failed to comply with respondent's request that a proper return be filed, a proposed assessment was issued on the basis of information available from employers, financial institutions and the State Employment Development Department. The assessment included penalties for failure to file, failure to file after notice and demand, and negligence. Appellant protested and argued that she had no income and was not constitutionally or statutorily subject to the California personal income tax.

Respondent's determinations of additional tax and penalties are presumptively correct, and the taxpayer has the burden of proving that they are wrong. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980.) No error has been established in this case. The arguments made by appellant are identical to those which we have repeatedly rejected as having absolutely no merit. (See Appeal of Harry Sievert, Cal. St. Bd. of Equal., April 8, 1980; Appeal of Ronald W. Matheson, Cal. St. Bd. of Equal., Feb. 6, 1980; Appeal of Marvin L. and Betty J. Robey, Cal. St. Bd. of Equal., Jan. 9, 1979; and Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977.) Subsequent to the submission of this matter for decision on November 4, 1981, appellant complained that she did not receive a proper oral hearing before us or at the protest level of the Franchise **Tax Board** and she requested that we arrange for the same. Since appellant's position is clear, we do not believe additional hearing time would serve any worthwhile purpose.

On the basis of the evidence before us, we can only conclude that respondent correctly computed appellant's tax liability, and that the imposition of penalties was fully justified. Respondent's action in this matter will, therefore, be sustained.

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O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Barbara Joan Castor against a proposed assessment of additional personal income tax and penalties in the total amount of \$719.00 for the year 1977, be and the same is hereby sustained.

Done at Sacramento, California, this 3rd day of March , 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Reilly, Mr. Dronenburg, Mr. Nevins and Mr. Cory present.

William M. Bennett , Chairman

George R. Reilly , Member

Ernest J. Dronenburg, Jr. , Member

Richard Nevins , Member

Kenneth Cory , Member